



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-84,073-01

EX PARTE MARTIN PENA, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1379020-A IN THE 184TH DISTRICT COURT
FROM HARRIS COUNTY**

Per curiam.

ORDER

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of possession with the intent to deliver cocaine and sentenced to fifteen years' imprisonment. He did not appeal his conviction.

Applicant contends that his plea was involuntary and the State failed to disclose evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). The trial court made findings of fact and concluded that Applicant's plea was involuntary and the State violated *Brady v. Maryland*. It

recommended that we grant relief.

We order that this application be filed and set for submission to determine whether (1) the misconduct in Applicant's case should be imputed to the prosecution for purposes of Applicant's *Brady v. Maryland* claim; (2) this misconduct is exculpatory; and (3) Applicant's plea was involuntary because of "impermissible conduct by state agents." *Brady v. United States*, 397 U.S. 742, 757 (1970). The parties shall brief these issues. Oral argument is not permitted.

It appears that Applicant is represented by counsel. If he is not, the trial court shall determine whether he is indigent. If he is indigent and desires to be represented by counsel, the trial court shall appoint an attorney to represent him. TEX. CODE CRIM. PROC. art 26.04. The trial court shall send to this Court, within 60 days of the date of this order, a supplemental transcript containing: a confirmation that Applicant is represented by counsel; the order appointing counsel; or a statement that Applicant is not indigent. All briefs shall be filed with this Court on or before 90 days of the date of this order.

Filed: November 18, 2015
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